

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JAMAR ANTONIO BEAVER,
11 Petitioner,
12 v.
13 BRUNO STOLC,
14 Respondent.

Case No. C08-430-JCC
ORDER

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16 This matter comes before the Court on Petitioner's Motion for a Certificate of
17 Appealability. (Dkt. No. 58.) Having thoroughly considered Petitioner's motion and the
18 relevant record, the Court hereby DENIES Petitioner's motion for reasons explained herein.

19 Petitioner received a dismissal of his application for a writ of habeas corpus (Dkt. No.
20 56) on June 6, 2010. Later that day, Petitioner timely filed a Motion for a Certificate of
21 Appealability. (Dkt. No. 58.)

22 If Petitioner is to appeal denial of a writ of habeas corpus, this Court must first issue a
23 certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). "A certificate of
24 appealability may issue . . . only if the applicant has made a substantial showing of the denial
25 of a constitutional right." 28 U.S.C. § 2253(c)(2). This standard requires Petitioner to show that
26 reasonable jurists would find the district court's assessment of the constitutional claims to be

ORDER
PAGE - 1

1 debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). A decision on a
2 constitutional claim meets this standard when it is debatable among jurists of reason, a court
3 could resolve the issue in a different manner, or the questions are adequate to deserve
4 encouragement to proceed further. *Lambright v. Stewart*, 220 F.3d 1022, 1024–25 (9th Cir.
5 2000).

6 Petitioner contends, again, that the prohibition against double jeopardy and his due
7 process rights have been violated. (Mot. 1–2 (Dkt. No. 58).) Petitioner claims that the firearm-
8 enhanced portions of his sentence contravene constitutional law because “[he] has been
9 punished 3 separate times (for a total of 11 years in prison) even though only two firearms
10 were involved in the incident.” (Mot. 2 (Dkt. No. 58).) Petitioner’s argument is identical to the
11 one he made on his denied habeas petition, as well as the argument that was rejected on appeal
12 to the state courts. Petitioner is re-alleging that it is a violation of due process and the
13 prohibition against double jeopardy for the number of firearm enhancements to exceed the
14 number of firearms used in a crime.

15 This Court previously found that Petitioner had failed to show that enhancing three of
16 his crimes with fewer than three firearms amounted to a constitutional violation. (*See Order*
17 (Dkt. No. 56).) Petitioner’s regurgitated argument also fails. Petitioner has not made a
18 substantial showing of the denial of a constitutional right, nor has he cited authorities that
19 indicate that this Court’s assessment of this case was debatable or wrong. This Court has
20 already explained why Petitioner’s cited precedent is not relevant to his situation. (*See Order*
21 3–4 (Dkt. No. 56).) Petitioner’s argument is baseless and unsupported, especially in light of the
22 Washington legislature’s clear indication that: (1) firearm enhancements are to be imposed
23 even when the possession or use of a firearm is an element of the underlying offense, and (2)
24 multiple enhancements are to be imposed for a single act of using or possessing when possible.
25 (*See Dkt. No. 35 Ex. 3 at 12–13.*) No reasonable jurist could rely on irrelevant precedent and
26 ignore legislative intent so as to create a debatable matter here.

1 Petitioner's Motion for a Certificate of Appealability (Dkt. No. 58) must be DENIED.

2 DATED this 6th day of July, 2010.

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A handwritten signature in black ink, appearing to read "John C. Coughenour". The signature is written in a cursive style with a vertical line extending from the end of the "n" in "Coughenour" towards the right margin of the page.

John C. Coughenour
UNITED STATES DISTRICT JUDGE